

**TOWN OF DAVIE  
REGULAR MEETING  
SEPTEMBER 14, 2004**

**1. PLEDGE OF ALLEGIANCE**

The meeting was called to order at 7:00 p.m. and was followed by the Pledge of Allegiance.

**2. ROLL CALL**

Present were Mayor Truex, Vice-Mayor Paul, Councilmembers Crowley, Hubert and Starkey. Also present were Town Administrator Willi, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

Mayor Truex advised that item 3.9 was withdrawn. Councilmember Starkey asked Mr. Willi to take into consideration comments that she and Councilmember Crowley made regarding this issue.

Mayor Truex advised that staff requested that item 3.17 be tabled to September 21, 2004. Mr. Willi advised that draft contract language needed to be addressed.

Councilmember Hubert made a motion, seconded by Councilmember Starkey, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex announced that items 3.20 and 3.21 needed to be added.

Councilmember Starkey made a motion, seconded by Councilmember Hubert to add. In a voice vote, all voted in favor. (Motion carried 5-0)

**3. APPROVAL OF CONSENT AGENDA**

*Minutes*

- 3.1. June 16, 2004 (Regular Meeting) (tabled from September 7, 2004)
- 3.2. July 7, 2004 (Regular Meeting) (tabled from September 7, 2004)
- 3.3. July 14, 2004 (Regular Meeting)
- 3.4. July 27, 2004 (Workshop Meeting)
- 3.5. August 18, 2004 (Special Executive Session)

*Proclamations*

- 3.6. Lori Nance Parrish Day (September 18, 2004)
- 3.7. National Breast Cancer Awareness Month (October) and National Mammography Day (October 15, 2004)
- 3.8. Davie/Cooper City Chamber of Commerce "Under the Harvest Moon Day" (October 22, 2004)

*Resolutions*

- 3.9. **RELEASE OF LIEN** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A WAIVER AND RELEASE OF LIEN CONCERNING THE LIEN AGREEMENT BETWEEN THE TOWN OF DAVIE AND JOLMY ENTERPRISES, INC. (tabled from August 18, 2004)
- 3.10. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE  
R-2004-209 BIDS AWARDED BY THE STATE OF FLORIDA AND THE FLORIDA SHERIFF'S ASSOCIATION FOR AUTOMOBILES AND TRUCKS AND HEAVY EQUIPMENT.

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- 3.11. **PURCHASE** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-210 ACCEPTING THE BID FROM FISCHER SCIENTIFIC COMPANY LLC TO PURCHASE TWENTY-FIVE SELF CONTAINED BREATHING APPARATUS (SCBA) AND ASSOCIATED EQUIPMENT VIA STATE OF FLORIDA BID NO. 490-000-03-1. (Fisher Scientific Company, LLC - \$128,000)
- 3.12. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-211 AUTHORIZING THE MAYOR TO EXECUTE A SERVICE AGREEMENT FOR MEDICAL DIRECTOR SERVICES BETWEEN THE TOWN OF DAVIE AND WAYNE LEE M.D. F.A.C.E.P. d/b/a PHYSICIAN ASSOCIATES, INC. (\$20,000 annually plus expenses and COLA; not to exceed \$30,000 annually)
- 3.13. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-212 SELECTING THE FIRMS OF SALTZ MICHELSON ARCHITECTS AND CPZ ARCHITECTS, INC. TO PROVIDE MISCELLANEOUS ARCHITECTURAL SERVICES AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.
- 3.14. **DECLARATION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-213 RATIFYING THE ACTIONS OF THE MAYOR IN DECLARING A STATE OF EMERGENCY WITHIN THE TOWN OF DAVIE DUE TO THE EFFECTS OF HURRICANE FRANCES; AND PROVIDING FOR AN EFFECTIVE DATE.
- 3.15. **SUBDIVISION PLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-214 APPROVING A SUBDIVISION PLAT KNOWN AS CALAMITY ACRES AND AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND TOWN SEAL TO SUCH PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 9-1-02, Calamity Acres, 15050 SW 27 Street)
- 3.16. **DELEGATION REQUEST** - A RESOLUTION OF THE TOWN OF DAVIE,  
R-2004-215 FLORIDA, APPROVING A DELEGATION REQUEST TO CHANGE THE RESTRICTIVE NOTE ON THE PLAT KNOWN AS THE S&Z SUBDIVISION PLAT; AND PROVIDING AN EFFECTIVE DATE. (DG 8-2-04, S&Z Subdivision, 7090 State Road 84)
- 3.17. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF DAVIE AND THE CITY OF DANIA BEACH FOR INSPECTION, PLAN REVIEW, BUILDING OFFICIAL AND RELATED SERVICES TO BE PERFORMED BY THE TOWN OF DAVIE BUILDING DIVISION OF THE DEVELOPMENT SERVICES DEPARTMENT.

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- 3.18. **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,**  
R-2004-216 **AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT  
BETWEEN THE TOWN OF DAVIE AND THE CITY OF LAUDERDALE LAKES  
FOR INSPECTION, PLAN REVIEW, BUILDING OFFICIAL AND RELATED  
SERVICES TO BE PERFORMED BY THE TOWN OF DAVIE BUILDING DIVISION  
OF THE DEVELOPMENT SERVICES DEPARTMENT.**
- 3.19. **TRAILS/HORSE CROSSINGS - A RESOLUTION OF THE TOWN OF DAVIE,**  
R-2004-217 **FLORIDA, APPROVING TYPICAL EQUESTRIAN AND/OR RECREATION TRAIL  
CROSS-SECTIONS AND HORSE-CROSSINGS DETAILS TO BE USED FOR  
CONSTRUCTION OF SAID TRAILS AND HORSE CROSSING WITHIN THE TOWN  
OF DAVIE; AND PROVIDING AN EFFECTIVE DATE.**

*Items added*

- 3.20. A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE  
RESIGNATION OF TOWN ADMINISTRATOR THOMAS J. WILLI; AND  
PROVIDING AN EFFECTIVE DATE.
- 3.21. A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE  
CONTRACT FOR COLLECTION AND DISPOSAL OF SOLID WASTE, BULK  
WASTE, RECYCLING AND CONSTRUCTION AND DEMOLITION DEBRIS  
BETWEEN THE TOWN OF DAVIE AND WASTE MANAGEMENT INC. OF  
FLORIDA; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE  
DATE.

Councilmember Hubert requested that item 3.19 be removed from the Consent Agenda. Vice-Mayor Paul requested that items 3.2, 3.3, 3.4 and 3.21 be removed. Councilmember Starkey requested that items 3.1, 3.8 and 3.10 be removed.

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey to approve the Consent Agenda minus items 3.1, 3.2, 3.3, 3.4, 3.8, 3.10, 3.19 and 3.21. In a voice vote, all voted in favor. (Motion carried 5-0)

**4. DISCUSSION OF CONSENT AGENDA ITEMS**

3.1 Councilmember Starkey advised that she had listened to the recorded minutes of the discussion regarding bulk pickup once a week. She indicated that she wanted to opine further on this issue and wanted further detail to reflect the intent of her comments.

Councilmember Starkey made a motion, seconded by Mayor Truex, to table to September 21, 2004. In a voice vote, all voted in favor. (Motion carried 5-0)

3.2, 3.3, and 3.4 Vice-Mayor Paul made a motion, seconded by Councilmember Hubert, to table to September 21, 2004. In a voice vote, all voted in favor. (Motion carried 5-0)

3.8 Councilmember Starkey read the proclamation declaring October 22, 2004, "Under the Harvest Moon Day".

Alice Harrington, Davie/Cooper City Chamber of Commerce, spoke of the positive aspects of the event and advised that the event would be held at Nova Southeastern University. She announced that the event's website was [www.undertheharvestmoon.com](http://www.undertheharvestmoon.com) and stated that the Chamber would have further information promoting the event.

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Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

3.10 Councilmember Starkey expressed her discomfort about using a piggyback bid of \$1.2 million with the caveat that any volumes of vehicles that needed to come through would be subject to the RFP on the piggyback bid. She asked for more detail on why this approach would be taken

Assistant Town Administrator Ken Cohen explained that the essence of the issue was that the Town was in a consortium of government entities trying to bid a number of vehicles to get a good price. He advised that the other municipalities' involvement was to ensure getting the best price.

Councilmember Starkey stated that her problem was with the large amount. She was concerned with the statement: "the procurement manager would look at each contract vehicle we need to buy and choose the contract that was more economically advantageous." Councilmember Starkey felt that both contracts were too voluminous, as Council had indicated before. She voiced her concern that each vehicle would be looked at each time.

Mr. Cohen explained that the contracts would be looked at to ensure that the vehicle fit the application that the Town envisioned the vehicle being used for.

Councilmember Crowley made a motion to approve. He stated that he had been buying vehicles from the Florida Sheriff's Association for years and felt the pricing could not be compared when buying several vehicles.

Vice-Mayor Paul stated that she had previously voiced her concern that when the Town started buying new vehicles, it needed to be cognizant of energy efficient options. She requested that Councilmember Crowley's motion be amended to reflect that energy efficient vehicles be considered when feasible.

Mr. Cohen stated that to his knowledge a number of sheriffs in the state used hybrid models. He advised that he was not sure if this caveat was in the bid and indicated that the Town would try to make every effort to incorporate this where feasible.

Councilmember Crowley made a motion, seconded by Vice-Mayor Paul, to approve with the caveat that energy efficient vehicles be considered where feasible. In a voice vote, all voted in favor. (Motion carried 5-0)

3.19 Councilmember Hubert stated that she had reviewed the maps and felt that too much property was being taken from the developer for the right-of-way and easements. Councilmember Starkey felt that this was a good thing as the Town was planning to use the land for public use and open space. She stated that the Town was trying to enhance its overall trail system. Vice-Mayor Paul stated that it added a certain amount of beauty to the roadway to have a wider expanse of trails and landscaping to enhance the community. Councilmember Hubert felt that 50 feet was too much.

Planning and Zoning Manager Fernando Leiva explained that the Town was not requiring developers to dedicate an entire 50-foot right-of-way. He explained that the item concerned three different sections and that one area was a cross-section for horses that would vary from 10 to 30 feet. He indicated that the second item was the re-creation of the horse trails that would vary anywhere from 5 to 15 feet. Mr. Leiva referred to page 2, section 2 of the ordinance which outlined the required amount of space for trails. Mr. Leiva stated that the drawings were to indicate the re-creation of trails in the context of the whole right-of-way. He stated that section 2, section 3 and section 4 of the ordinance comprised the actual requirement of 5 to 15 feet and 10 to 35 feet.

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Vice-Mayor Paul asked if some of this area was being used for the rural lifestyle initiative. Mr. Leiva advised that this requirement for trails was consistent with the criteria for the rural lifestyle initiative.

Mayor Truex felt the residents would appreciate having the additional green space to use and enjoy. He added that it would not take anything away from anyone.

Mr. Leiva explained that the Town would not be requiring everybody to dedicate this space. He further stated that if residents had properties adjacent to the trails identified on the map, the Town might request that those residents provide additional right-of-way. Councilmember Crowley felt that a cross section by recreational trails and by bodies of water should be added to the draft. Mr. Leiva agreed to this.

Councilmember Starkey stated that Councilmember Crowley and the District had worked on the coral shelves that added wetland natural buffer swales to filter a lot of the stormwater runoff and equestrian waste before it got into the canals. Councilmember Starkey added if Council looked at a cross-section like that, it would benefit the Town."

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

3.21 Vice-Mayor Paul referred to pages 31, 32, and 33 under "Other Provisions" regarding materials and mixing of materials and asked how these conditions would be monitored or reported. Public Relations Coordinator Susan Dean stated that mixing of materials was not much of a problem. She stated that issues would probably be handled by residents calling her individually, after which she would report their complaints to Waste Management.

Vice-Mayor Paul asked at what point the Town determined a problem and how it would be monitored. Tony Spadaccia, representing Waste Management, explained that customer service complaints and resolutions were all registered and were available.

Vice-Mayor Paul **stated that the other issue was when Council was discussing bulk at the last Council meeting Mr. Spadaccia stated, and she read a direct quote stating "your not going to be there with a ruler measuring if items are four inches or greater you stated that you were not going to say "Oops" in that pile over there I see a three inch tree but we're going to leave it. If its incidental to that pickup we're going to take it."** Vice-Mayor Paul wanted to clarify that if someone placed branches or tree trunks over four inches in diameter for bulk pickup, along with a few branches or trunks **that are** three inches or smaller, everything would be picked up. Mr. Spadaccia agreed.

Vice-Mayor Paul made a motion to approve.

Mr. Kiar advised that he and Bill Laystrom had worked on the contact language regarding the statute of limitations issue and indicated the performance bond would refer to Florida Statute 95.11 rather than to a specific timeframe. Mr. Laystrom agreed.

Mayor Truex invited the public to speak on this item.

Dave Katz, representing Republic Services, stated that it was difficult to understand how a multi-million dollar garbage contract had been walked on and placed on the Consent Agenda for the meeting without being advertised or posted on the Town's website. He added that after looking over the backup for this item, he realized that some rates had changed from the initial RFP, which in turn affected his firm's rates. Mr. Katz was concerned that if he had known the pricing could have been re-negotiated, his firm might have been able to offer lower rates than proposed. He asked whether any other rates had changed. Mr. Cohen responded that no other rates had changed, but the franchise fee had increased, which impacted the overall cost.

Councilmember Starkey asked why the increase had been made. Mr. Cohen explained that during the negotiation process, some rates had been adjusted. He indicated that some incidental items were not

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charged to the community as a whole but some individuals who wanted services above and beyond the basic service. Councilmember Starkey clarified that the basic rate to residents did not increase and that this only related to additional service, additional bulk pickup, additional containers, additional services, or a special district. Ms. Dean advised that the current tipping fee rates that would become official in October, which affected the rates. Councilmember Starkey asked regardless of who was awarded the bid, if this would have still been applicable. Ms. Dean responded yes.

Councilmember Crowley asked if Mr. Kiar had had an opportunity to review the additional backup that was provided that same evening. Mr. Cohen indicated that the contract and backup had been provided a week earlier. Councilmember Crowley advised that he had received a phone call from a resident who was concerned that the item had not been advertised, giving the public an opportunity attend and voice their opinions. Mr. Willi advised that this item was a resolution and would not have been advertised in the newspaper. He advised that the item discussed in previous meetings had been advertised during the normal process. Vice-Mayor Paul stated that to her awareness, this was the culmination of the public meetings and previous Council meetings. She stated that Council's direction was to complete this discussion at the current meeting. Vice-Mayor Paul felt Council had discussed this with the public at length for some time.

Councilmember Crowley referred to page 12, section 1.2, stating that bulk waste limit was not to exceed six cubic yards. He asked how many cubic yards a basic container held. Mr. Spadaccia advised that the quantity had been increased to 320 cubic yards which was substantial.

Mayor Truex agreed that it was not acceptable to walk this item onto the agenda even though he realized it was not a public hearing. He stated that while Waste Management had won the contract, he felt it was unseemly to walk this item on, as it was a large contract that affected all residents. Councilmember Starkey stated she was not going to penalize the residents or the contractor because the item had not been posted. She suggested that in the future, it was important to put all items in the backup on the agenda and on the website, even if a contract came forward at the last minute.

Councilmember Crowley felt Council should wait until the next meeting which would give the attorney time to review the item. He indicated that the contract was very competitive and since two professional companies were involved, this was only fair. Councilmember Starkey pointed out that the new service involving new trucks and new containers needed to be up and running by October 1st. She felt the negotiations should have been approved months ago based on Council's direction. Councilmember Starkey stated that Mr. Kiar had reviewed and approved the contract. She agreed that the item should have been properly noticed, but did not feel it would harm the process to move forward. Councilmember Crowley pointed out that the new system would be phased in anyway, so two additional weeks would not hurt.

Mr. Spadaccia stated that Waste Management could not order the equipment needed until an agreement was reached. He pointed out that the 45-day time frame to order the equipment, along with the additional two weeks to assemble and distribute the carts, would amount to a total delay of up to 60 days beyond the date of the agreement.

Vice-Mayor Paul stated that in consideration of Councilmember Crowley's views, she was willing to withdraw her motion and extend the present contract to 60 days to avoid penalizing the vendor.

Councilmember Hubert asked if the contract would be delayed, would the old pricing remain, since the new pricing reflected new equipment. Bill Laystrom, representing Waste Management, felt it was fair to allow the vendor to charge the old rates if the contract award was delayed an additional week. Mr. Cohen did not feel that Waste Management was justified in charging the old rates simply because the contract would be delayed for one week. Vice-Mayor Paul stated that if the one-week delay would make

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a difference in her residents getting the benefit of a lower rate, she would be willing to reverse her position.

Councilmember Crowley stated that he would be comfortable when the attorney had the opportunity to review the additional backup, make comments, and resolve all outstanding issues, and when all public comments had been reflected. Mr. Kiar stated that he had reviewed the old contract. He advised that on September 2nd, he had sent a memorandum outlining certain changes, provisions and recommendations. He asked whether these had been incorporated into the new contract with Mr. Cohen responding in the affirmative. Mr. Kiar advised that he felt comfortable with the new contract with Mr. Cohen's assurances that the changes that he and Mr. Cohen had previously discussed were implemented.

Councilmember Starkey stated that she objected to the way in which the process had been handled since the original RFP. She stated that there were 11 recommendations made on September 2nd. Councilmember Starkey advised that earlier on, when there were issues with the contract, she had met with Ms. Dean and Mr. Cohen and had requested that Mr. Kiar's comments be addressed to ensure that any confusion on the definition of bulk were resolved based on his recommendations and that he be involved in any conflicts. She felt there were internal snags that needed to be worked out. Ms. Dean stated that regarding the previous meeting, Mr. Kiar had not sent comments over until the afternoon of the meeting, which was why they were not reviewed until the next day.

Mr. Laystrom stated that the applicant's issue was the lack of time to roll out the new service and the new service rates. He wanted the ability to get the program in place as quickly as possible. Mr. Laystrom suggested sending out a bill that indicated the first month of service at the existing rate and the next two months at the rate in the contract. Further, Waste Management would use one cart until they could order the second cart, probably starting January 1, 2005. Mayor Truex stated he was unsure about these terms in light of the contract. Mr. Laystrom pointed out that the RFP had the condition that the contract would be approved in July.

Mr. Kiar advised that his suggestions of September 2nd had been incorporated into the revised document distributed to Council.

Councilmember Crowley asked about the Waste Management franchise fee audit memorandum from Mr. Willi indicating that \$4,506 was due to the Town. Mr. Laystrom responded that he had not seen this.

Vice-Mayor Paul made a motion, seconded by Councilmember Hubert, to approve. In a voice vote, with Mayor Truex dissenting, all voted in favor. (Motion carried 4-1)

Fire Chief Don DiPetrillo introduced the Town's new EMS Director, Dr. Lee and provided a brief background of his qualifications. Dr. Lee thanked the Town for its confidence in him and for welcoming him to the Town.

**5. PUBLIC HEARING**

*Ordinances - Second and Final Reading*

- 5.1. **REVISION - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,**  
2004-28 **AUTHORIZING A REVISION TO THE ESTIMATED REVENUES AND**  
**APPROPRIATIONS FOR THE FISCAL YEAR 2004.**

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Hubert made a motion, seconded by Councilmember Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

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- 5.2. **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA ADOPTING RULES AND REGULATIONS TO FOSTER CITIZEN PARTICIPATION IN THE PROCESSING OF DEVELOPMENT APPLICATIONS WITHIN THE TOWN; AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, BY CREATING DIVISION 7, ENTITLED "PUBLIC PARTICIPATION"; PROVIDING FOR GUIDELINES AND REQUIREMENTS FOR THE CITIZEN PARTICIPATION PLAN AND REPORT; AMENDING SECTION 12-302 ENTITLED "APPLICATIONS"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF THE LAND USE PLAN APPLICATION; AMENDING SECTION 12-306 ENTITLED "PROCESSING"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF REZONING AND SPECIAL PERMIT APPLICATIONS; AMENDING SECTION 12-372 ENTITLED "SITE PLAN SUBMISSION REQUIREMENTS"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF THE SITE PLAN APPLICATION; AMENDING ARTICLE 12-379, ENTITLED "MASTER PLANNED DEVELOPMENT SUBMISSION REQUIREMENTS"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF THE MASTER PLANNED DEVELOPMENT; AMENDING SECTION 12-503 ENTITLED "DEFINITIONS"; PROVIDING FOR DEFINITIONS UTILIZED IN THE PUBLIC PARTICIPATION PROCESS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Mayor Truex asked if items that were exempt had been stricken. Mr. Kutney responded in the affirmative and proceeded to summarize the planning report.

Councilmembers explained that the changes and exemptions being discussed had not been distributed to Council. Councilmember Starkey pointed out that Council had previously requested that before changes were made, documents be provided in the backup to Council. She asked that in the future, an underscore be used to indicate items that were added, that a strikethrough be used to indicate changes, and that changes on documents be highlighted, then distributed in Council's backup.

Councilmember Starkey made a motion, seconded by Mayor Truex, to table to October 6, 2004. In a voice vote, all voted in favor. (Motion carried 5-0)

*Resolution*

- 5.3. **FIRE ASSESSMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, RELATING TO THE PROVISION OF FIRE SERVICES, FACILITIES AND PROGRAMS IN THE TOWN OF DAVIE, FLORIDA; REIMPOSING FIRE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE TOWN OF DAVIE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2004; APPROVING THE ASSESSMENT ROLL; AND PROVIDING AN EFFECTIVE DATE.

Town Clerk Muniz read the resolution by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Hubert was concerned about the sudden increase to the residents instead of an incremental increase.



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Councilmember Starkey made a motion, seconded by Vice-Mayor Paul, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

**6. APPOINTMENTS**

- 6.1. Agricultural Advisory Board (one exclusive appointment - Councilmember Starkey; term expires April 2006) (insofar as possible, members shall have experience in agricultural matters, related occupations or other similar skills)

No appointment was made.

- 6.2. Child Safety Board (Councilmember Crowley and Starkey and Mayor Truex; terms expire April 2006) (whenever possible, members shall have interest and expertise in law enforcement, elementary school instruction, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointments were made.

- 6.3. Open Space Advisory Committee Agency (one exclusive appointment - Mayor Truex; term expires April 2006)

No appointment was made.

- 6.4. School Advisory Board (one exclusive appointment - Mayor Truex; term expires April 2006) (insofar as possible, members are to have experience in educational matters)

No appointment was made.

- 6.5. Senior Citizen Advisory Committee (one exclusive appointment - Councilmembers Crowley and Mayor Truex; two exclusive appointments - Councilmember Hubert; terms expire April 2006) (members shall be a minimum 60 years of age)

No appointments were made.

- 6.6. National League of Cities - Annual Congress of Cities (non-exclusive appointment of a Voting Delegate and a Voting Alternate(s))

This item was deferred to October 6th.

**7. OLD BUSINESS**

- 7.1. Sunny Lakes

Earlier in the meeting, Mr. Willi indicated that staff had a brief report on different funding options to lay out the money for Sunny Lake.

Programs Administrator Chris Kovanen advised that Davie came in first place on the contingency list and was first on the non-funded list. He indicated that the FCT would be sending a representative to inspect the site and to date, there was no confirmation that the Town had received FCT funding. Mr. Kovanen advised that the Land Preservation Board had voted unanimously to request partial funding from the Broward County Commission and that Commission had voted to fund the project at \$1.7 million, about 50% funding.

Mayor Truex asked Mr. Kovanen about the status of the State grant. Mr. Kovanen explained the history of the grant process and how projects were funded in its cycle. He felt the chances of getting funding for the site were high. Mr. Kovanen advised that he would not be comfortable stating when these funds would be received, as he was unsure how long the wire transfer process would take.

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Vice-Mayor Paul stated that to her understanding, the Town would have to pay the \$3.4 million up front and be reimbursed later.

Mayor Truex asked if due diligence efforts had been done. Mr. Kovanes stated that due diligence surveys, appraisals and environmental assessments had been completed.

Councilmember Starkey advised that she had spoken with individuals in Tallahassee and the Town's lobbyist, who had indicated that several projects would fall out, freeing up money for the Town's potential funding. She stated that the projects were estimated to fall out by December. Councilmember Starkey spoke of an extra \$16 million added to the State's existing contingency funds, which might make more funding available to the Town.

Mayor Truex asked if the County's funding was contingent upon receiving the State grant. Councilmember Starkey stated that the County had made a motion that would take monies from the greenways and trails funds to be put into the funding source to provide the 50% portion.

Mayor Truex stated that all the County Commissioners should be commended and that with the 50% funding in hand, the chances were high that the Town would receive the remainder of the funding. He voiced his comfort that the Town would not be out of pocket on this project. However, Mayor Truex felt some interim mechanism needed to be in place to avoid arriving at December 15th and wondering how the project would be paid for. He stated that the project had been a long process but ultimately would benefit a lot of people in the east end of Davie.

Vice-Mayor Paul stated that she wanted to preserve the parcel but was concerned about how the up-front funding would be accomplished within the Town's budget. She spoke about several recommendations provided by Budget and Finance Director William Underwood and asked about the Trust for Public Land in Tallahassee. Vice-Mayor Paul felt if they were prepared to get involved, they could take it over completely and negotiate without costing the Town any money. Mr. Kovanes explained that the Trust for Public Land would go into negotiation for the site, acquire the site, and carry it until the grant funding was received, upon which the Town would reimburse the Trust. He also felt this was an option Council should consider.

Vice-Mayor Paul asked if Mr. Kovanes had had any contact with the organization. Mr. Kovanes responded in the affirmative and stated that the Trust for Public Land kept a close eye on projects submitted to Tallahassee. He advised that he had met with members of the Trust in Tallahassee and had discussed the application and its possibilities. Mr. Kovanes stated there was a big concern about the dollar amount and advised that the Trust had offered its assistance. He advised that the Town had to give the Trust permission to go ahead with negotiations. Mr. Kovanes stated that the Trust's name would be on the contract, hold the deed and then turn it over to the Town later.

Vice-Mayor Paul spoke of the \$400,000 requirement and asked if the Town was willing to hold the contract and let the Trust handle it. She stated that if she could be assured that the Trust would come in, then all the money would be reimbursable.

Councilmember Starkey stated that her concern was that the Trust might not be able to negotiate in time with the seller. She stated that based on her confidence level that the Town would receive funding for this purchase, she wanted Council to look into the Florida League of Cities option of acquiring an interest-only loan for a short period, until grant funding was received. Councilmember Starkey asked Mr. Underwood if that had been researched. Mr. Underwood stated that the League's program was easy to implement, but his concern was about the timing of the funds and the interest rate. He spoke of various funding options he had recommended to Council previously, such as using open space funds and other sources that would not negatively impact the Town's budget.

Mayor Truex asked how much open space funds remained. Mr. Underwood replied \$999,000. Vice-Mayor Paul asked Mr. Underwood if those funds had not been earmarked for any other purpose. Mr. Underwood stated that to the best of his knowledge, they had not been earmarked for any purpose.

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Councilmember Hubert asked what would happen if the grant funding was not received. Councilmember Starkey reminded Councilmember Hubert that the County had voted unanimously to fund the \$1.7 million. Councilmember Hubert suggested asking the Town residents to raise funds toward the purchase. Councilmember Starkey stated that residents were already participating in efforts to raise money, but would not raise the large quantity needed. Councilmember Hubert voiced her concern that the State might decide to use the funds for post-hurricane disaster relief efforts. Councilmember Starkey stated that at this point, this was a bonded, guaranteed amount that was committed to public lands.

Councilmember Crowley stated that he had watched the County meeting earlier and voiced his support for this project if the Town could receive 50% of the funding. He commended Southwest Ranches Mayor Fink for voting in support of this project and stated that he was not willing to turn his back on the residents at this point.

Vice-Mayor Paul stated that she had been talking to residents who had suggested that based on the Town's commitment to open space, Council might consider going for another open space bond issue next year. She suggested that Council consider this option based on the positive results of the 1989 open space bond issue. Vice-Mayor Paul felt that the Open Space Advisory Committee had worked on open space issues and using the funds very well over the years. She spoke of properties that had been acquired and that based on past experience and the unique qualities in the community and the way residents had voted in the past, they would consider this money well spent. Vice-Mayor Paul felt this would provide an opportunity to complete trails, east-west connectors, add additional pieces and, earmark a certain amount of money each year for maintenance, which would take a tremendous burden off the general fund in terms of maintaining open space and trails. She advised that she had spoken to an individual who would take this suggestion to the Committee. Vice-Mayor Paul pointed out that with this option, all residents could participate as the funds would help improve the Van Kirk, Math Iglar and Sunny Lake properties.

Councilmember Crowley asked if any checks had been received for the Van Kirk property. Mr. Kovanis advised that no money had actually been received yet, but the amount to be received had been increased to \$5.2 million. He advised that money would come from two funding sources: the Broward County Land Preservation Fund, which would provide \$2 million, and the State's FCT, which would provide \$5.2 million.

A resident of the Sunny Lakes area thanked Council and staff on behalf of other residents. She quoted a section of the Town's Charter regarding the Town's commitment to conserve and protect its natural resources and its rural lifestyle initiative.

Mr. Willi recommended that Council vote to move forward with the contract as is, while giving staff direction to present different funding schemes and "what-if" strategies to Council by the first meeting in October.

Councilmember Starkey spoke of the \$400,000 that was due to the Town previously and asked if **the \$999,000 would** ~~this could~~ be taken from ~~the 1999~~ open space funds. She asked if staff needed Council's direction for this. Mr. Willi advised that direction had already been given and that this money had been set aside.

Vice-Mayor Paul was confident that the Town would receive full funding for this acquisition. She stated that if she did not have this level of comfort she would not want to move forward, but stated that she had seen the system work and felt comfortable.

A resident stated that if necessary, residents would go up to Tallahassee and ask for ten points for excellence.

Councilmember Hubert asked if the County could provide something in writing indicating that it had approved the funding. Councilmember Starkey stated that she had called and requested that a fax be sent indicating the exact motion and advised that a number of individuals would be responding in writing regarding the agreement to provide the funds.

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Councilmember Starkey made a motion, seconded by Mayor Truex, to approve so that staff could provide funding strategies to be discussed by Council on October 6, 2004. Vice-Mayor Paul added to the motion the condition that the Trust for Public Lands be contacted. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

#### **7.2. Sunrise Water (Mayor Truex)**

Mr. Willi recapped the settlement agreement with the City of Sunrise. He stated that a number of years had gone by during which the Town's water system had been evaluated along with the system the Town would try to utilize for providing water to residents. Mr. Willi advised that this issue came down to a study of the numbers regarding the cost of the purchase and the legal cost to assume control. He indicated that the monthly fee each residential unit would pay would force Davie's water bill to be the highest in the County and would only serve the people who currently lived in the Town.

Mr. Willi advised Council that Administration's recommendation was to take no action as far as eminent domain to assume control of the water system. He advised that the report recommended exhausting other measures to reduce the 25% surcharge and spoke of the Town's unsuccessful effort to move forward with a concept that would reduce the surcharge to 10%. Mr. Willi suggested that Council file a new bill seeking sponsorship for this initiative during the next legislative session. He advised that the six-year time period was swiftly drawing to a close.

Mayor Truex felt Council had an obligation to hold a workshop on this issue for the benefit of the number of residents affected. He spoke of the bill proposed by Representative Mike Davis and felt that progress was being made. Mayor Truex asked when the rates might be raised again. Mr. Willi indicated that rates would be raised in three years. Mayor Truex proposed that a workshop meeting be held for public forum discussion.

Councilmember Starkey agreed with Mayor Truex but thought that if Council wanted to approach this legislatively, it needed to do more homework to understand the climate it was dealing with in Tallahassee. She advised that Representative Feeney's was in a district two years ago that received a surcharge fee and he was trying to help with this issue. Councilmember Starkey advised that larger communities that received surcharge fees would be fighting with Davie and spoke of the need to join with communities that had imposed surcharges and that would be "sunsetting" on this, based on legislation that had passed previously. She felt the Town should try to contact these communities to work with them and suggested that the League and the Town's lobbyists would be helpful in handling this issue.

Councilmember Starkey asked Mr. Willi what was happening with the Town's legal counsel and lobbyists at the current time, regarding actions and studies they were undertaking. Mr. Willi responded that no consultant or specialist was doing any work on this issue for the Town. He stated that he had asked Mr. Kiar's office to help staff review legislation the Town attempted to file last year in anticipation of re-filing this year. Mr. Willi advised that he was currently attempting to meet with Council and the local delegation to discuss the bill and seek sponsorship for it. He indicated that he would bring this issue before Council before the bill's filing date.

Councilmember Crowley stated that he was amenable to holding a workshop on this item. Councilmember Starkey asked about the timeline. Mayor Truex suggested that the workshop meeting be held some time in January or February 2005.

#### **7.3. Interim Town Administrator**

Human Resources Management Director Mark Alan gave a brief presentation of the recruitment and selection process for the Town Administrator position.

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Mayor Truex asked how long the Interim Town Administrator would be needed. Mr. Alan indicated possibly six months.

Councilmember Starkey spoke of literature that she had received from the International City/County Manager's Association, which provided guidelines for recruitment of Interim Town Administrators. She asked that Council be provided a copy of this literature.

Councilmember Hubert felt that the choice should come from within. Mayor Truex felt that going outside might open the opportunity to attract more culturally diverse candidates who might bring something more to the Town. Councilmember Hubert suggested utilizing a headhunter who would be paid if one of their suggestions were hired.

Mr. Alan spoke of the list of individuals suggested by Vice-Mayor Paul and advised that the list Council currently had included individuals who did not "fight too hard." He advised that no applications had been sought and that no official word had been given by Administration about the position. Vice-Mayor Paul stated that she had called each individual on the list and requested that they send updated resumes if they were interested in moving forward.

Councilmember Crowley felt the Town should advertise throughout the State and he would like to select an interim that was interested in a full time position. He stated that several in-house employees were qualified.

Councilmember Starkey stated that she was not quite in favor of using a headhunter, based on previous experience with such firms, as she felt they were sometimes prejudiced to getting a commission and tried to force individuals into positions based on criteria. She indicated that she liked the option Mr. Alan suggested to find a way that would be more interactive using an outside organization like the ICMA or the Range Riders as consultants to help Council with the process.

Councilmember Starkey advised that she viewed the position as someone who would 1) help with a smooth transition, 2) be very honest up front and able to cull the information needed over the next few months, 3) allow most of the functions of the Town to continue and 4) be unbiased in helping to recruit candidates for the permanent position. She stated that she was overwhelmed by the number of qualified candidates working within the Town. Councilmember Starkey stated that the individual selected would help establish criteria on what the Town wanted to do long-term, based on sound recruitment practices established for recruiting city managers and County managers." She added that she thought it would be useful for Council to put all this information together in a workshop which could be a way of short listing based on minimum qualifications established by the Council.

Mayor Truex agreed with Councilmember Starkey that the role of the Interim Administrator was not necessarily a stepping-stone to becoming Town Administrator. He stated that in the event something happened to Mr. Willi, the Town had Mr. Cohen on staff. Mayor Truex stated that he did not want to disrupt a department by having a department director fill the interim position. He felt that Mr. Cohen was a team player and was the logical choice for Interim Town Administrator.

Vice-Mayor Paul did not agree totally where department directors were concerned. She stated that she was looking for a strong, creative person who understood that Council was a policymaker and was committed to the best interests of the Town, residents, and for someone who would answer questions and get to the bottom of issues with a no-nonsense approach. Vice-Mayor Paul indicated that she was interested in someone who could communicate well.

Vice-Mayor Paul nominated Mr. Kovanes for the position of Interim Town Administrator. Councilmember Starkey seconded the nomination.

Councilmember Starkey stated that she wanted to maintain stability as various issues and negotiations were ongoing in the Town that needed to be maintained. She spoke highly of the Town's internal pool of potential candidates. Councilmember Starkey spoke highly of Mr. Kovanes' ability, education, and experience in the Town to do the job short term. She spoke of Mr. Underwood who she

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felt was outstanding and amazing and highly respected among his peers. She stated that she was concerned with the upcoming budget and wanted someone of Mr. Underwood's caliber to work with Mr. Cohen on the budget goals this year. Councilmember Starkey felt that Mr. Kovanes was technical oriented and was able to implement and follow through on Council's wishes.

Vice-Mayor Paul advised that Mr. Kovanes was a dissertation away from his doctorate in public administration. She indicated that Mr. Kovanes along with Code Compliance Supervisor Danny Stallone and Development Services Director Mark Kutney, also had his master's degree in public administration. Councilmember Starkey agreed.

Councilmember Crowley asked Mr. Kovanes if he was interested in the position permanently. Mr. Kovanes responded in the affirmative.

Councilmember Crowley nominated Mr. Stallone and spoke highly of his level of trust in Mr. Stallone and his experience. He stated that Town Clerk Muniz was well qualified for the position. There was no second to the nomination.

Councilmember Hubert stated that she was not in favor of the national search because it would be very costly; however, a headhunter would provide candidates that the Town wanted. She felt that Mr. Cohen and Mr. Kovanes were the best choices. Mayor Truex stated that his only reluctance regarding Mr. Kovanes was the longevity and depth of his management experience. Vice-Mayor Paul pointed out that many of Mr. Kovanes' evaluations had commended his creativity, which she felt was important.

In a roll call vote on Mr. Kovanes' nomination, the vote was as follows: Mayor Truex - no; Vice-Mayor Paul - yes; Councilmember Crowley - no; Councilmember Hubert - no; Councilmember Starkey - yes. (Motion denied 3-2)

Councilmember Crowley made a motion to nominate Mr. Stallone. The motion died due to the lack of a second.

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to re-consider the vote on Mr. Kovanes. In a voice vote, with Mayor Truex dissenting, all voted in favor. (Motion passed 4-1)

Vice-Mayor Paul made a motion to approve Mr. Kovanes as Interim Town Administrator. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Paul - yes; Councilmember Crowley - no; Councilmember Hubert - no; Councilmember Starkey - yes. (Motion denied 3-2)

Councilmember Hubert made a motion to approve Mr. Cohen. The motion died due to the lack of a second.

Councilmember Crowley made a motion, seconded by Mayor Truex, to nominate Mr. Stallone as Interim Town Administrator. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - no; Councilmember Crowley - yes; Councilmember Hubert - no; Councilmember Starkey - no. (Motion denied 3-2)

Mayor Truex asked that Mr. Underwood be considered. Councilmember Starkey commended Mr. Underwood for his extensive experience and skill but expressed her concerns about the Town's budget and staffing shortage within the Finance Department. Mr. Underwood stated that the vacant positions were being filled. He was comfortable with his understanding of the Town's financial position and his ability to relay this to the Town and its citizens.

Vice-Mayor Paul voiced her concern that the Town had gone without a Finance Director for so long that she wanted the department to be stabilized.

Mayor Truex nominated Mr. Underwood. Councilmember Starkey seconded the nomination.

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Mayor Truex pointed out that Mr. Underwood had served as an interim city manager in other municipalities and also had extensive management experience.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - no; Councilmember Crowley - no; Councilmember Hubert - no; Councilmember Starkey –yes. (Motion denied 3-2)

Councilmember Starkey made a motion, seconded by Councilmember Hubert, to nominate Mr. Kovanes. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion passed 5-0)

#### **8. NEW BUSINESS**

- 8.1. Councilmember Starkey - Local Government Leader of the Year, Fifth Annual “Spirit of Excellence”

Mayor Truex presented Councilmember Starkey with a plaque recognizing that she had been selected to receive the Local Government Leader of the Year Fifth Annual Spirit of Excellence Award. He advised that a dinner would be held in her honor at the Signature Grand on September 22nd.

Council congratulated Councilmember Starkey on achieving this award.

#### **9. MAYOR/COUNCILMEMBER’S COMMENTS**

##### **COUNCILMEMBER CROWLEY**

**VAN KIRK.** Councilmember Crowley asked about the Van Kirk property and when it would appear on the Agenda. Mr. Willi advised that staff was just waiting on the numbers and Mr. Kutney advised that the agreement had been decided on. Mr. Kovanes indicated that the state had required that an additional environmental study be concluded. Mr. Kovanes advised that he had a meeting scheduled with the environmental agency, which would be resolved within a 12 business-day period.

##### **COUNCILMEMBER STARKEY**

**DEBRIS REMOVAL.** Councilmember Starkey spoke about the debris removal problem and voiced her concern about the Town’s contracted service. Public Works/Capital Projects Director Bruce Bernard spoke about the Town’s debris removal plan with the contractor. He spoke of the contractor’s speedy clean up efforts around the Town over the last few days. Mr. Bernard pointed out that the Town was actually far ahead in clean up compared to other cities.

Councilmember Starkey was concerned that even though the Town had done everything possible to advise residents quickly, something was missing that was not communicated to residents, many of whom took the opportunity to start trimming and pruning their trees when in fact they needed a permit to do so. She asked Mr. Bernard to advise Council on what it could do better next time, as the staff and EOC workers had been overwhelmed during both hurricanes. Mr. Bernard stated the Town had not planned for the type of storm scenario experienced with the back-to-back hurricanes. He felt a Town-wide educational approach was needed. Councilmember Starkey suggested that in the event of an emergency situation, bulk pick up should be collected as quickly as possible. Mr. Bernard stated that Waste Management would have to do its fair share in another event of this nature. He felt Waste Management had not performed its pickup service adequately after the storms.

Councilmember Starkey thanked staff and the EOC workers for the fantastic job they did during the hurricanes.

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Vice-Mayor Paul complimented Public Works for quickly clearing the streets. She advised the public to separate their bulk pickup items from their yard debris. Mr. Bernard spoke highly of the efforts of the Town's contractor to pick up debris around the Town.

Councilmember Starkey asked Mr. Bernard to review the contract and see where the Town could make improvements. Mr. Bernard advised that when this contract ran out, the Town would be writing its own RFP sometime in January 2005.

**AIRPORT SURVEY.** Councilmember Starkey spoke of the survey that the Airport Advisory Board intended to distribute. She asked for Council's approval to mail out this survey to all residents. Council agreed to place this item on the agenda for the next Council meeting.

**COUNCILMEMBER HUBERT.**

**POLICE DEPT.** Councilmember Hubert congratulated the Police Department on their selection to represent Davie at the Miss America Pageant.

**VICE-MAYOR PAUL.**

**CONDOLENCES.** Vice-Mayor Paul offered condolences to Grants Specialist Colleen Ryan and the family of Police Officer Richard Wendrow.

**9/11 OBSERVANCE.** Vice-Mayor Paul advised that she represented the Town at Western High School's third annual September 11th observance.

**PARK DEDICATION.** Vice-Mayor Paul spoke of the dedication of the Joy Yoder Equestrian Center at West View Park that would be held on September 20.

**SIGNAGE.** Vice-Mayor Paul spoke of the need for better signage at the roundabout at Shotgun Road at 136th and 14th

**MAYOR TRUEX.**

**TREE TRIMMING.** Mayor Truex spoke of the tree-trimming ordinance and asked if the Town was enforcing action against trimming storm-damaged trees. Mr. Willi responded that he was not aware of any action. Mayor Truex advised that he was contacted by a resident who stated that she was given a Code violation notice for trimming Australian Pines. Mr. Willi and Vice-Mayor Paul indicated that there was more to this issue. Mayor Truex advised that he would look into this.

**DEDICATION.** Mayor Truex stated that the Police and Fire Memorial groundbreaking was to be held on September 23rd at Pine Island Park.

**10. TOWN ADMINISTRATOR'S COMMENTS**

No comments were made.

**11. TOWN ATTORNEY'S COMMENTS**

No comments were made.

**12. ADJOURNMENT**

There being no further business to discuss and no objections, the meeting was adjourned at 10:38 p.m.

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor/Councilmember

\_\_\_\_\_  
Town Clerk